

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval of Rate Increases)
And Revised Rate Schedules and)
Rules)
_____)

DOCKET NO. 2008-0083

INTERIM DECISION AND ORDER

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PUBLIC UTILITIES
COMMISSION

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Docket No. 2008-0083

INTERIM DECISION AND ORDER

By this Interim Decision and Order, the commission approves in part and denies in part the request by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") to increase its rates on an interim basis, as set forth in HECO's Statement of Probable Entitlement, filed on May 18, 2009. As detailed herein, the commission determines that HECO has not met its burden of proving that it is probably entitled to recover several cost items, which are included in the Statement of Probable Entitlement. Thus, the commission instructs HECO to exclude those costs, and file revised schedules with the commission, together with written explanations as to the amounts removed, and any other downward adjustments made to the schedules due to the exclusion of the costs for interim relief purposes.¹ The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate") and the DEPARTMENT OF THE NAVY on behalf of

¹Any upward adjustments made to the revised schedules must be accompanied by testimony establishing the prudence of the adjustment for purpose of allowing the commission to determine whether HECO is probably entitled to recover that amount.

the DEPARTMENT OF DEFENSE ("DOD")² may file comments on HECO's revised schedules within five days of the date of filing.

In addition, the commission sets forth in this Interim Decision and Order, certain issues that the commission determines are not fully supported in the present record, and for which additional testimony by the Parties is needed. The commission will allow the Parties to file supplemental testimonies on these issues in advance of the evidentiary hearing, scheduled to begin on August 10, 2009.

I.

Background

On July 3, 2008, HECO filed an application for approval of rate increases and revised rate schedules and rules ("Application") in which HECO requested a general rate increase of approximately \$97,011,000, or 5.2%, over revenues at current effective rates.³

By Order Granting Intervention to Department of Defense, filed on August 20, 2008, the commission granted the DOD's Motion to Intervene and Become a Party, filed on July 29, 2008.

²HECO, the Consumer Advocate, an ex officio party to this docket pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62, and the DOD are collectively referred to herein as the "Parties."

³Revenues at current effective rates are revenues from base rates, revenues from the energy cost adjustment clause ("ECAC") and revenues from the interim rate increase that went into effect on November 1, 2008 in HECO's 2007 test year rate case, Docket No. 2006-0386.

On October 20, 2008, as a product of the Hawaii Clean Energy Initiative ("HCEI"),⁴ the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism ("DBEDT"), the Consumer Advocate, and the HECO Companies⁵ entered into a comprehensive agreement designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward "indigenously produced renewable energy and an ethic of energy efficiency."⁶ The HECO Companies thereafter filed several applications, and the commission initiated investigations, relating to programs contemplated in the Energy Agreement, including, but not limited to: decoupling, feed-in tariffs ("FIT"), advanced metering infrastructure ("AMI"), Photovoltaic ("PV") Host Program, and Clean Energy Scenario Planning ("CESP"). The Energy Agreement also included programs that were already pending consideration by the commission, but were not yet approved (i.e., HECO's proposed Renewable Energy Infrastructure Program ("REIP") (Docket No. 2007-0416)).

By order issued on October 31, 2008, the commission, among other things, found HECO's Application to be complete and

⁴On January 31, 2008, the State of Hawaii and the United States Department of Energy entered into a Memorandum of Understanding designed to establish a partnership, called HCEI, which aims to have 70% of all of Hawaii's energy needs generated by renewable energy sources by 2030.

⁵"HECO Companies" collectively refers to HECO and its affiliates, Hawaii Electric Light Company, Inc. and Maui Electric Company, Limited.

⁶Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies ("Energy Agreement"), at 1.

properly filed under HRS § 269-16(d) and HAR § 6-61-87, determined the filing date of HECO's completed Application as July 3, 2008, and directed the Parties to submit a stipulated procedural order for the commission's review and approval.

In November and December 2008, HECO submitted voluminous updates to its 2009 test year estimates ("Rate Case Updates") set forth in the Application, Direct Testimonies, Exhibits, and Workpapers.⁷ The Rate Case Updates included information on many of the pending, but not yet approved, HCEI-related programs currently before the commission.

On January 12, 2009, the commission issued, sua sponte, an Order Extending Date of Completeness of Application, revising the filing date of HECO's Application from July 3, 2008 to December 26, 2008. The Order indicated that HECO submitted voluminous updates to its Direct Testimonies in support of the Application that contained significant substantive changes to HECO's Direct Testimonies. To give the other Parties and the commission sufficient time to review the updated Application, the commission extended the filing date of HECO's completed Application to December 26, 2008, the date the last update was filed by HECO.

On January 15, 2009, the Parties submitted a Stipulated Procedural Order containing a Schedule of Proceedings, which the commission approved in its Order Approving, with Modifications, Stipulated Procedural Order Filed on January 15, 2009, issued the same day.

⁷From January through March 2009, HECO responded to IRs that were submitted by the Consumer Advocate and DOD regarding HECO's updated estimates.

By letter filed on January 20, 2009, HECO requested that the commission amend the Schedule of Proceedings in the Stipulated Procedural Order so as to set July 2, 2009 as the specific date by which an interim decision and order should be rendered in this docket. On January 21, 2009, the commission granted HECO's request with the issuance of its Order Amending Stipulated Procedural Order.

By letter dated April 6, 2009, the commission advised the Parties that their Statement of Probable Entitlement and Proposed Interim Decision and Order "should not include any mechanisms or expenses related to programs or applications that have not been approved by the commission (e.g., decoupling, REIP, Solar Saver Pilot Program amendments, AMI program)."⁸

On April 17, 2009, the Consumer Advocate and DOD filed their Testimonies, Exhibits and Workpapers with respect to revenue requirements, which reflected rate increases of \$62,700,000, and \$42,100,000, respectively. On April 28, 2009, the Consumer Advocate and DOD filed their Testimonies, Exhibits and Workpapers with respect to cost of service and rate design.

On May 15, 2009, the Parties filed their Settlement Agreement, in which the Parties stated that they reached agreements on all but two issues in this proceeding: (1) what is the appropriate test year expense for informational advertising; and (2) what is the appropriate return on common equity for the test year.⁹ The Parties agreed that these two issues should be

⁸Letter dated April 6, 2009, from the commission to the Parties.

⁹See Settlement Agreement at 1.

addressed at the evidentiary hearing.¹⁰ The Parties further agreed that the amount of the interim rate increase to which HECO is probably entitled under HRS § 269-16(d) is \$79,820,000 over revenues at current effective rates.

On May 18, 2009, HECO filed its Statement of Probable Entitlement, including a Proposed Interim Decision and Order, in which HECO requested an interim rate increase in the amount of \$79,811,000.¹¹ The Statement of Probable Entitlement, and the commission's exclusions from interim relief, are discussed further below.

II.

Probable Entitlement

HRS § 269-16(d) requires that the commission make every effort to complete its deliberations with respect to a public utility's request for a rate increase "as expeditiously as possible and before nine months from the date the public utility filed its completed application." The statute further provides that, if such deliberations are not concluded within the nine-month period, the commission shall render an interim decision within one month after the expiration of the nine-month period. The commission may postpone its interim rate decision an

¹⁰The Parties further waived their rights to: (a) present further evidence on the settled issues, except as provided in the Settlement Agreement; and (b) conduct cross-examination of the witnesses who are not testifying on the contested issues at the evidentiary hearing. See id. at 2.

¹¹HECO explained that the amount of interim increase requested in its Statement of Probable Entitlement is lower by \$9,000 than the amount in the Settlement Agreement due to the finalization of the revenue requirement run. See Statement of Probable Entitlement, at 1.

additional thirty days if the commission considers the evidentiary hearing incomplete. The interim decision may allow an increase in rates if the commission believes the public utility is "probably entitled" to such interim rate relief.

While a review for probable entitlement is necessarily less rigorous than that accorded in rendering a decision on final rates¹² the commission must nevertheless be convinced that the utility is, indeed, probably (i.e., more likely than not)¹³ entitled to the various underlying components of the request for interim rate relief. Stated differently, HECO has the burden of establishing probable entitlement to the requested rate relief. Here, the commission is not convinced that HECO is probably entitled to recover, for interim purposes, the following rate items included in HECO's Statement of Probable Entitlement.

1.

HECI-Related Costs Excluded From Interim Rates

As set forth above, by letter dated April 6, 2009, the commission advised the Parties that the Statement of Probable Entitlement and Proposed Interim Decision and Order should not include any mechanisms or expenses related to programs or applications that have not been approved by the commission (e.g., decoupling, REIP, and AMI). Notwithstanding and contrary to that explicit directive, in its Statement of Probable Entitlement,

¹²See, e.g., Interim Decision and Order No. 11559, filed on March 31, 1992, in Docket No. 6998, at 7.

¹³See Black's Law Dictionary 1201 (6th ed. 1990) (defining "probable" as "[h]aving more evidence for than against; supported by evidence which inclines the mind to believe, but leaves some room for doubt").

HECO includes numerous HCEI initiatives that are currently pending before the commission. Consistent with its directive, the commission now excludes certain HCEI-related items that were included in HECO's request for interim relief. Simply, these items do not pass the "probable entitlement" test because the commission has not yet approved these programs, many of which are early in the regulatory approval process. For that reason among others, the commission cannot reasonably determine that the programs will be implemented during the test year. These items include:

(a) Sales Decoupling: The Parties have proposed a revenue decoupling mechanism and submitted a proposed tariff establishing a Revenue Balancing Account ("RBA"), effective on the date of the Interim Decision and Order.¹⁴ The commission has not yet determined that a sales decoupling mechanism and the establishment of HECO's proposed RBA are just and reasonable in the decoupling docket (Docket No. 2008-0274). The commission finds that the Parties disregarded the commission's directive and hereby disallows any cost related to the implementation of the RBA at this time.

(b) HCEI-Related Positions: In Rate Case Update HECO-T-15 (pages 4-11), HECO identified several positions that were created due to the various proposed HCEI initiatives, including the PV Host Program, FIT, the Lifeline Rate Program, decoupling, demand response programs identified in the Energy

¹⁴See Statement of Probable Entitlement at 7-8.

Agreement, the "Big Wind" project,¹⁵ AMI, and CESP. The commission has not approved these programs nor determined that their costs are just and reasonable. Accordingly, the commission requires that HECO exclude the costs associated with these positions from interim rates. In addition, there was no indication in the Settlement Agreement that the positions related to the Amended Solar Saver Pilot Program were removed due to the commission's denial of that application. The commission directs HECO to remove those positions and their related costs, as well, if it has not already done so.

(c) HCEI-Related Outside Services: The Parties described \$2,220,000 of Big Wind implementation studies on page 21 of the Settlement Agreement. In settlement discussions, the Parties agreed that HECO recover these costs through the REIP Surcharge. The Parties propose that if HECO does not recover these costs through the REIP Surcharge, it should be allowed to recover them through rates approved in this rate case. These studies, however, relate to an HCEI project not yet approved by the commission. In addition, the commission has not rendered a decision in the REIP docket, Docket No. 2007-0416. As such, the commission does not at this time approve these costs for recovery through interim rates or a surcharge mechanism.¹⁶

¹⁵The "Big Wind" project refers to the commitment by the parties to the Energy Agreement to integrate, with the assistance of the State, up to 400 megawatts of wind power into the Oahu electrical system from one or more wind farms on Lanai or Molokai and transmitted to Oahu via undersea cable systems.

¹⁶On page 21 of the Settlement Agreement, the Parties agreed to normalize outside services' costs related to participation in commission-initiated proceedings or obtaining commission approval (e.g., legal and regulatory support services) for initiatives identified in the Energy Agreement.

Other Costs Excluded From Interim Rates

The commission has also determined that interim rates should reflect the following adjustments:

(a) Campbell Industrial Park Combustion Turbine Unit ("CT-1") In-Service Date: The commission is concerned that HECO's CT-1 unit is not currently "used and useful." To allow HECO to recover costs associated with CT-1 as of July 2009, prior to it becoming "used and useful" is inappropriate and inconsistent with Decision and Order No. 23457, filed on May 23, 2007. In addition, the commission is concerned that CT-1 may not be operational by the end of the 2009 test year because the fuel supply contract has not been resolved. The record is currently insufficient to demonstrate that the CT-1 unit will be in service by the end of the 2009 test year.

Consequently, the commission denies the inclusion of any costs or rate base additions associated with the CT-1 unit in interim rates. Along with the other issues addressed below in

The result is a reduction of \$396,000 in test-year outside services costs for the following HCEI-related dockets:

\$ 80,000 PV Host Program - HECO only, amortized over two years

\$ 40,000 PV Host Program - MECO & HELCO costs removed

\$ 253,000 AMI legal & regulatory - amortized over two years

\$ 23,000 FIT legal & regulatory - MECO & HELCO costs removed

\$ 396,000 Total reduction

The commission will allow HECO, for interim purposes, to include legal and regulatory costs related to the PV Host, AMI, and the FIT programs, as described above.

Section III, the Parties may provide additional testimony relating to CT-1 by July 20, 2009.

(b) Employee Electricity Rate Discount: The commission is concerned with the justness and reasonableness of electricity discounts for HECO employees and former employees during these times of economic crisis and the critical need to incentivize energy conservation. The proposed Schedule E on page 24 of Exhibit HECO-106 provides full-time HECO employees and former employees with electricity rates that are two-thirds of the effective Schedule R rate for the first 825 kWh of consumption in each month. Such rates may be unduly discriminatory and under-allocate electricity costs to HECO employees and former employees. For purposes of interim rates, the commission directs HECO to remove Schedule E and adjust other rates based on this change. The Parties may provide additional testimony on the justness and reasonableness of Schedule E by July 20, 2009.

(c) Merit Employee Wage Increases: According to page 88 of Exhibit HECO T-7, the 2009 test year wages for merit employees are expected to exceed 2007 levels by 8.55%. The commission finds that the record insufficiently addresses the accuracy, reasonableness, and fairness of the proposed wage increases for merit employees given current economic conditions. For purposes of interim rates, wage levels are restricted to 2007 levels or the most recent actual labor costs filed with the commission, taking into account the vacancy rate agreed upon by the Parties on pages 22 and 23 of the Settlement Agreement. The Parties may provide additional testimony, by July 20, 2009, examining to what extent current economic conditions have

affected increases in wages between 2007 and the 2009 test year, and whether current economic conditions could potentially lead to lower wages than those agreed upon by the Parties on pages 24 and 25 of the Settlement Agreement.

(d) Commodity Prices: According to pages 62 through 65 of Exhibit HECO T-8, one of the reasons for the \$1,529,516 increase in the Transmission and Distribution ("T&D") Materials Inventory in 2009 compared to 2007 is increased commodity prices. Since the July 2008 filing of this testimony, it is the commission's understanding that commodity prices have fallen substantially.

The commission finds that the record insufficiently addresses how reductions in commodity prices since the initial filing, if true, should be reflected in T&D Materials Inventory costs included in rates. The commission finds that for interim rates, HECO should update its T&D Materials Inventory cost to reflect current commodity prices. The Parties may address through additional testimony filed by July 20, 2009, the appropriateness of the proposed increases in T&D Materials costs in light of lower current commodity prices.

On pages 102 and 103 of HECO T-7, HECO describes how rising commodity prices contributed to the increase in Other Production Maintenance costs from 2007 amounts to those proposed in the 2009 test year. The commission finds that the record is insufficient regarding how reductions in commodity prices since the initial filing should be reflected in Other Production Maintenance costs included in rates. The commission directs HECO, for interim rates, to update its Other Production

Maintenance costs to reflect current commodity prices. The Parties may also address through additional testimony filed by July 20, 2009, the appropriateness of the proposed increases in Other Production Maintenance costs in light of lower current commodity prices.

3.

Revised Schedules

The commission instructs HECO to exclude the foregoing costs and mechanisms from interim rate relief, and file revised schedules with the commission, together with written explanations as to the amounts removed, and any other downward adjustments made to the schedules due to the exclusion of the costs and mechanisms from interim relief.¹⁷ The Consumer Advocate and the DOD may file any comments on HECO's revised schedules within five days of the date of HECO's filing.

III.

Additional Issues

In reviewing the record to date, the commission finds that certain issues, identified below, merit additional examination prior to the final decision in this docket. Thus, in addition to the two remaining disputed issues identified in the Statement of Probable Entitlement and the Parties' Settlement Agreement, the issues identified below may be at issue in the evidentiary hearing. Any additional testimonies on the following issues may be filed by July 20, 2009:

¹⁷See footnote 1.

(a) Employee Count: The record indicates that there has been an increase in the number of employees in the 2009 test year. Given the decline in HECO's sales (about 8% from interim rate relief awarded in the 2007 test year rate case), the transition of its energy efficiency programs to a third-party administrator, and the possible disallowance of CT-1, the commission finds that additional information is necessary to determine whether the increase in the number of employees between 2007 and 2009 is reasonable.

(b) Purchased Power Adjustment Clause ("PPAC"): Section 30 of the Energy Agreement states that the HECO Companies will be allowed to pass through reasonably incurred purchase power contract costs, including all capacity, O&M, and other non-energy payments approved by the commission (including those acquired under the FIT) through a separate surcharge. In its update to HECO T-22, HECO has proposed the PPAC pursuant to Section 30 of the Energy Agreement. The commission finds, however, that more information is needed to determine the reasonableness of this surcharge.

(c) Cost Overruns On CIP Projects: According to HECO's most recent update on cost estimates for the CT-1 project, HECO estimates substantial cost overruns for the CT-1 project. The commission is concerned about the lack of justification in the record relating to the cost overruns for CT-1 and other CIP projects.

(d) ECAC: The commission desires additional testimony regarding whether HECO's proposed ECAC complies with the

statutory requirements of HRS § 269-16(g), and whether the record supports such a commission finding.

(e) Integrated Renewable Portfolio ("IRP")/Demand-Side Management ("DSM") Costs: There appears to be a significant increase in IRP/DSM costs in the 2009 test year over previous years. The commission is concerned about the reasonableness of such increases given the transition of energy efficiency DSM programs to a third-party administrator.

(f) Rate Design: (i) Are the time-of-use ("TOU") rates incorporated in rate design for the purpose of incenting off-peak use and dis-incenting on-peak use? (ii) Is this the proper proceeding to consider TOU, or should it be more appropriately considered in the AMI docket? (iii) Can the State make progress toward energy efficiency through rate design without AMI?

(g) Non-Merit Employee Wage Increases: The record is devoid of evidence concerning the degree of labor cost flexibility for non-merit employees. Specifically, the commission is interested in the extent to which non-merit employee labor costs could be lower than those proposed for the 2009 test year due to current economic conditions.

(h) Cost Allocation: The commission is concerned about the justness and reasonableness of the Parties' proposed allocation of cost increases. These increases appear to depart from the traditional functionalization, classification, and allocation methodology used to determine rates for each customer class. On pages 20 and 21 of HECO T-1, HECO proposed to allocate cost increases equally to all customer classes on a per-kWh basis. Pages 84 and 85 of the Parties' Settlement

Agreement described rate increases that, while not uniform across rate classes, do not appear to utilize functionalization, classification, and allocation methodologies.

On page 85 of the Settlement Agreement, the Parties proposed to implement the interim rate increase on a cents-per-kWh basis. The commission is concerned that such an increase could inappropriately include fixed costs in the variable component of rates. The Parties may provide additional testimony explaining and supporting these elements of their proposed cost allocation and rate design.

(i) Possible Management Audit: The commission recognizes that HECO appears to be assuming that the revenue requirements approved prior to this rate case continue to be prudent and reasonable, and that it is taking advantage of all potential efficiencies. The commission is considering ordering a management audit of the HECO Companies to evaluate whether this assumption is correct. The Parties may file additional testimony that provides recommendations on the best way to engage in a management audit to be paid for by HECO, or to suggest other means to accomplish the commission's objective.

(j) Significant Expense Increases: The commission notes that there appears to be significant increases in certain expenses between the 2007 test year interim award to the 2009 test year in the areas of: (i) production; (ii) transmission; (iii) distribution; (iv) allowance for uncollectibles; and (v) admin & general. These areas may be subject to further examination by the commission.

IV.

Settlement Agreement

The commission further notes that the Settlement Agreement does not appear to be fully supported by the present record. More specifically, it appears that the Parties agreed to certain terms in the Settlement Agreement without providing additional support, explanation, or justification for the reasonableness of their agreements. The commission accordingly directs the Parties to provide witnesses at the evidentiary hearing who will possess knowledge and be capable of answering commission questions relating to the reasonableness of the Parties' agreements in their Settlement Agreement.

In addition, the commission notes other areas of concern with the Settlement Agreement that should be addressed by the Parties:

(a) Settlement Increase in Rates: According to the introductory letter of the Settlement Agreement: "The Parties agree that the amount of the Interim Rate Increase to which HECO is probably entitled under §269-16(d) of the Hawaii Revised Statutes is \$79,820,000 over revenues at current effective rates." The \$79,820,000 figure is not supported anywhere in the Settlement Agreement. Page 8 of Exhibit 1 of the Settlement Agreement shows the increase to be \$79,699,000, with a total revenue recovery of \$1,371,318,000. How do the Parties reconcile this discrepancy?

(b) A&G Maintenance Normalization: With respect to the A&G maintenance discussed on pages 54 and 55 of Exhibit 1 of the Settlement Agreement, the commission agrees with the initial

position of the Consumer Advocate that where costs are highly variable or non-representative going forward, normalization through historic averaging is appropriate. However, the average should not include the test year estimates, because it is inappropriate to create an estimate using a combination of actuals and another estimate. If the test-year estimates were presumed accurate, then normalization would be unnecessary. Thus, the average should have been of 2006-2008 actuals. The commission is unclear as to whether the \$145,000 of parking structure costs that the Parties have agreed should be capitalized, were accrued in 2008 or in 2009. (If they were accrued in 2008, this amount should be removed from the 2008 cost prior to averaging and instead added to the rate base.)

(c) ADIT Adjustments:

1. CIS Removal

According to pages 74 and 75 of Exhibit 1 of the Settlement Agreement, part of a section detailing ADIT adjustments:

The adjustment to remove the CIS project costs from rate base are shown on the Consumer Advocate exhibit CA-101, Schedule B-3, including the adjustment to ADIT of \$306,000 (increase ADIT balance/decrease rate base). However, it appears the Consumer Advocate did not transfer the ADIT adjustment to the Summary of Rate Base Adjustments. . . . HECO and the Consumer Advocate have agreed that the ADIT related to the CIS costs should remain in the ADIT balance for rate base purposes, resulting in the adjustment on average rate base of \$306,000 proposed above.

The \$306,000 figure does not appear to be supported either in the Consumer Advocate's filing or in the Settlement Agreement. Furthermore, the CIS adjustment shown on the table on 2008-0083

page 73 of Exhibit 1 of the Settlement Agreement is \$608,000, not \$306,000. The Parties may provide additional testimony explaining the basis of the \$306,000 adjustment and reconciling these two figures.

2. Book Depreciation

On page 75 of Exhibit 1 of the Settlement Agreement, regarding ADIT adjustments, the Parties agreed to reduce book depreciation by \$1,098,000 in the ADIT calculation, increasing ADIT by \$427,000 and reducing average rate base by \$214,000. According to the Settlement Agreement, "Book depreciation was adjusted for various items addressed in CA-101, Schedule C-22." Schedule C-22 does not appear to support this adjustment. The Parties may provide workpapers showing the calculations underlying the book depreciation adjustment.

(d) Rate Base Calculation Methodologies: Page 64 of Exhibit 1 of the Settlement Agreement describes how the rate base has been calculated by averaging the 2008 year-end rate base and the expected 2009 year-end rate base. The commission notes that an alternative methodology for calculating the rate base is to use the thirteen-month final balances from the month preceding the test year through the end of the test year. This method gives less weight to capital additions made at the end of the test year, which the CT-1 unit is likely to be. The commission asks the Parties to file testimony by July 20, 2009 examining whether averaging the rate base at the beginning and end of the test year is appropriate or whether HECO should employ other methodologies, such as thirteen-month averages, to calculate the rate base.

(e) Pension And OPEB Expense: On pages 53 and 54 of the Settlement Agreement, the Parties agreed to collect through rates \$14,042,000 of pension and other post employment benefit ("OPEB") contributions. This high amount of pension and OPEB contributions is in response to a reduction in the value of plan assets and a decrease in the return of pension assets. If the next rate case's test year is 2011, rates from this proceeding could be in effect for two years. This could facilitate revenue collection in excess of that needed to ensure the solvency of the pension and OPEB funds. The commission is concerned about such over-recovery as well as the potential for actual contributions to fall below the amount recovered through rates if an economic recovery improves asset value and performance. The Parties may provide testimony describing whether the pension and OPEB funds are externally managed "lock box" funds and whether there are any mechanisms to prevent contributions from being used for general utility operations or given to shareholders. The Parties should also describe what mechanisms, if any, ensure that HECO contributes to pensions and OPEB funds the amount it recovers for these costs through rates.

V.

Orders

THE COMMISSION ORDERS:

1. The commission approves interim rate relief for HECO, as set forth in its Statement of Probable Entitlement, filed on May 18, 2009, with the exception of the items discussed herein in Sections II.1 and II.2.

2. HECO shall exclude the costs described in Sections II.1 and II.2 from interim rate relief, and file revised schedules with the commission, together with written explanations as to the amounts removed, and any other downward adjustments made to the schedules due to the exclusion of the costs and mechanisms from interim relief.¹⁸ The Consumer Advocate and the DOD may file any comments on HECO's revised schedules within five days of the date of HECO's filing.

3. Any additional testimonies, as described above, shall be filed by July 20, 2009.


DONE at Honolulu, Hawaii JUL - 2 2009.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

APPROVED AS TO FORM:

By: 
Leslie H. Kondo, Commissioner


Kaiulani Kidani Shinsato
Commission Counsel

2008-0083.ps

¹⁸ See footnote 1.

CERTIFICATE OF SERVICE

The foregoing Interim Decision and Order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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